

Letter to Petitioner

Mr. David Lochbaum, Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, N.W., Suite 600
Washington, D.C. 20006-3919

SUBJECT: PETITION FOR RULEMAKING ON MANDATORY SUBMITTAL OF
PERFORMANCE INDICATOR (PI) INFORMATION NEEDED FOR THE
REACTOR OVERSIGHT PROCESS (ROP); PRM-50-72

Dear Mr. Lochbaum:

I am responding to your letter of November 30, 2000, which submitted a petition for rulemaking on behalf of the Union of Concerned Scientists (UCS). Your petition requested that the NRC revise its regulations to require that nuclear power plant licensees submit the PI information needed for the ROP. The petition acknowledged that licensees are now submitting this information on a voluntary basis. It also noted that PI information is an important part of the ROP. You stated that the NRC should require PI information in order to appear more authoritative and enhance public confidence. You also argued that currently, if one or two plants stop providing PI information, the NRC can compensate by performing more inspection but it is not clear that NRC will have the resources to compensate if many plants stop providing PI information in the future.

The NRC published a notice of receipt of a petition for rulemaking and request for public comments in the *Federal Register* on March 5, 2001 (66 FR 13267). The comment period closed on May 21, 2001. None of the three public comment letters received supported the petition. The Nuclear Energy Institute (NEI) contended there is no indication that a problem exists necessitating the requested rulemaking. Further, NEI indicated that licensees are already required to report or collect almost all of the information used to develop the PIs. Finally, NEI stated that if PI information were not reported by licensees, no unique and undue burden would be placed on NRC inspection resources. Exelon Corporation submitted a letter that supported NEI's comments. Robert Leyse submitted a letter that did not indicate whether the petition should be granted or denied.

The Commission is denying your petition for the following reasons. Currently, licensees are submitting the PI information needed for the ROP on a voluntary basis. The current voluntary program meets the NRC's regulatory needs. If circumstances change in the future (for example, if licensees decide to stop submitting the information voluntarily) the NRC can reevaluate its position on whether a rulemaking or other regulatory action is warranted. If necessary, pending implementation of a new position, the NRC can gather sufficient information to continue the ROP using modest inspection resources. The requested rulemaking might enhance public confidence to some degree by making the NRC appear more authoritative in the view of some individuals. However, it would consume resources to develop a rulemaking to codify the current practice, even though the current voluntary program meets the NRC's regulatory needs. Furthermore, if the

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current practice were codified, any future changes in the definitions or guidance for reporting PI information might be more difficult, use greater resources, and consume more time, as compared with changing a voluntary program. Further details are discussed in the enclosed notice of Denial of Petition for Rulemaking, which will be published in the *Federal Register*.

Sincerely,

Annette Vietti-Cook
Secretary of the Commission

Enclosure: Notice of Denial of
Petition for Rulemaking